SUBJECT: Hamilton Realty Capital Corporation (H.R.C.C.) – Appointment of Designated Manager and Expansion of Boundaries (PED09249) (Ward 2)

RECOMMENDATION:

a) That Glen Norton be appointed as the Designated Manager of the Hamilton Realty Capital Corporation (H.R.C.C.).

b) That the Mayor and Clerk be authorized to sign, on behalf of the City of Hamilton (as shareholder of the H.R.C.C.), an agreement in a form satisfactory to the City Solicitor, amending the Unanimous Shareholders' Agreement (U.S.A.) by deleting the map attached as Schedule ‘A’ to the Unanimous Shareholders’ Agreement (U.S.A.) that delineates the boundaries of the Downtown Hamilton Community Improvement Project Area and replacing it with Appendix ‘A’ to Report PED09249 that delineates the expanded Downtown Hamilton Community Improvement Project Area (D.H.C.I.P.A.) approved by City Council at its meeting held June 25, 2008.

EXECUTIVE SUMMARY:

Report PED09249 recommends the appointment of Glen Norton as the Designated Manager of the Hamilton Realty Capital Corporation (H.R.C.C.) and updates the map delineating the Downtown Hamilton Community Improvement Project Area that forms part of the Unanimous Shareholders’ Agreement (U.S.A.), the document that governs the operation of the H.R.C.C.
BACKGROUND:

City Council at its meeting held July 12, 2006 approved the Unanimous Shareholders’ Agreement (U.S.A.) that addresses corporate governance of the Hamilton Realty Capital Corporation (H.R.C.C.) including day-to-day management, accountability, financial strategy, monitoring, winding up and liquidation of the Corporation. Council also approved releasing $2 million to the H.R.C.C. in the form of a loan in accordance with the terms of the U.S.A. as well as releasing approximately $180,000.00 remaining in a Hamilton Future Fund account to fund operating costs of the Corporation. To date no monies have flowed to the H.R.C.C. and will not flow until the Corporation has an offer of purchase or entered into a lease agreement. At that time, the Corporation would have met the requirements of the Planning Act and monies can flow. As recently as August 13, 2009, City Council approved the sale of City lands municipally known as 140 King William Street to the H.R.C.C. The H.R.C.C. proposes to redevelop the site with a retail/commercial/institutional development together with a multi-level parking structure.

The H.R.C.C. is a for-profit development corporation operating within the Downtown Hamilton Community Improvement Project Area. The City of Hamilton and Forum Leasehold Partners Inc., the private sector investor, will both contribute $2 million to the H.R.C.C. in accordance with the U.S.A. The investor’s contribution shall at all times be at least equal to the amount of the City’s contribution to each project.

The U.S.A. allows the H.R.C.C. to pursue the following capital expenditures: to buy and sell property; to redevelop property; to propose and make applications under the Municipal Act or the Planning Act to seek approval of plans to redevelop property; and to advance loans to any other person for the purpose of any of the foregoing.

The termination date of the U.S.A. will be the earlier of five (5) years from the date of the U.S.A. or the date when the Capital Expenditures Satisfaction Date is achieved. The Capital Expenditures Satisfaction Date is the date on which the Corporation has made aggregate Capital Expenditures of not less than $8 million. Basically, the City’s $2 million and the private investor’s $2 million initial investment have circulated two times. The City will receive the $2 million initial investment back if funds are available in accordance with the U.S.A. The private investor will receive a 15% per year return on its investment.

The money from the City and the private investor will flow on a project-by-project basis. Once the terms of the U.S.A. are met to the satisfaction of the City Solicitor, monies will flow from the City and the private investor to the H.R.C.C. accordingly to fund the project(s).

To ensure potential proposals being considered by the Board of Directors of the H.R.C.C. meet all requirements of the Downtown Secondary Plan, the Downtown Zoning By-law and other policies of the City of Hamilton, a multi-disciplinary review team of staff has been established with expertise in law and planning. The team meets on an as required basis.
Staffing for the H.R.C.C. is to be provided in accordance with the Management Services Agreement which was executed concurrently with the execution of the U.S.A. Under the terms and conditions of the Management Services Agreement, it is within the purview of the City to designate a Manager from time to time. Gord Moodie, the former Senior Business Consultant for the Downtown and Community Renewal Division, was appointed to the Manager’s position in 2006. Gord left the employment of the City of Hamilton in March 2009 and the newly hired Senior Business Consultant, Glen Norton, is being recommended for appointment to the Manager’s position.

Projects of the H.R.C.C. must fall within the boundaries of the Downtown Hamilton Community Improvement Project Area (D.H.C.I.P.A.). The boundaries of the D.H.C.I.P.A. were expanded in June 2008. Therefore the existing map delineating the former boundaries of the D.H.C.I.P.A. forming part of the U.S.A. must be replaced with the map of the expanded D.H.C.I.P.A.

**ANALYSIS/RATIONALE:**

The appointment of Glen Norton to the position of Manager to the H.R.C.C. will allow continued staff support to the H.R.C.C., particularly in light of the recent approval by City Council to declare surplus the land municipally known as 140 King William Street and sell the property to the H.R.C.C. The management services are provided in accordance with the Management Services Agreement approved by City Council at its meeting held July 12, 2006.

**ALTERNATIVES FOR CONSIDERATION:**

There are no alternatives for consideration at this time.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

**Financial** – The operating grant to the H.R.C.C. to cover the costs of H.R.C.C.’s operating costs including compensation for the Manager is contained in Account No. 8200203107.

**Staffing** – The position of the Manager to the H.R.C.C. is to be provided in accordance with the Management Services Agreement approved by City Council at its meeting held July 12, 2006. The Management Services Agreement serves to provide the City with some degree of oversight with respect to the activities and decisions of the Corporation and, perhaps more importantly, some assurance that the Corporation and its Board of Directors are operating in accordance with the provisions of the Unanimous Shareholders’ Agreement.

**Legal** – The Legal Services Division was involved in negotiating the Unanimous Shareholder’s Agreement and the Management Services Agreement when forwarded for City Council approval in July 2008. Legal Counsel will continue to be required for all projects of the H.R.C.C. to ensure compliance with all appropriate policies, procedures and legislative requirements.
POLICIES AFFECTING PROPOSAL:

The policy provisions of the Downtown Secondary Plan, the Downtown Zoning By-law 05-200 and the Downtown and Community Renewal Community Improvement Plan are relevant considerations when moving forward with a development proposal of the H.R.C.C.

RELEVANT CONSULTATION:

The Downtown and Community Renewal Division consulted with the Corporate Services Department in the preparation of Report PED09249.

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No

This initiative is aligned with public plans designed to foster renewal and regeneration as contemplated in Vision 2020.

Environmental Well-Being is enhanced. ☑ Yes ☐ No

Human health and safety are protected.

The rehabilitation of the building stock and the development of properties in the Downtown makes efficient and effective use of City services as well as protecting human health and safety.

Economic Well-Being is enhanced. ☑ Yes ☐ No

Investment in Hamilton is enhanced and supported.

Downtown and Community Renewal programs lead to effective partnerships with community stakeholders and the development community. Developers and property owners invest in Downtown properties leading to property assessment increases through the rehabilitation of buildings and properties.

Does the option you are recommending create value across all three bottom lines? ☑ Yes ☐ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☑ Yes ☐ No

Hamilton continues to lead initiatives related to renewal. Such initiatives are professionally stimulating and result in Hamilton being a choice for employment to those interested in bettering community life.

HM:vk
Attach. (1)
The Redevelopment Zone is bounded by properties that abut Queen Street, Cannon Street, Victoria Avenue and Hunter Street (adjacent to the Downtown Hamilton Community Improvement Project Area portions of the street only) and also includes properties fronting on James Street (including abutting lands provided they are part of the comprehensive redevelopment of an eligible James Street North property) north to the CN Railway and south to Charlton Avenue.